

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

JULIO ANTELO.,

Plaintiff,

v.

DEPUY SYNTHES PRODUCTS, LLC;  
DEPUY SYNTHES SALES, INC.,

Defendants.

Case No. 2:13-cv-01613-MMD-GWF

ORDER ADOPTING AND ACCEPTING  
REPORT AND RECOMMENDATION OF  
MAGISTRATE JUDGE  
GEORGE FOLEY, JR.

Before the Court is the Amended Report and Recommendation of United States Magistrate Judge George Foley, Jr. (dkt. no. 72) ("R&R"), recommending dismissal of this action without prejudice. The deadline to object to the R&R is January 9, 2016. (Dkt. no. 72.) To date, no objection to the R&R has been filed.

This Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party timely objects to a magistrate judge's report and recommendation, then the court is required to "make a *de novo* determination of those portions of the [report and recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails to object, however, the court is not required to conduct "any review at all . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate judge's report and recommendation where no objections have been filed. See *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to  
2 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,  
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the  
4 view that district courts are not required to review "any issue that is not the subject of an  
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then  
6 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.  
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to  
8 which no objection was filed).

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to  
10 determine whether to adopt Magistrate Judge Foley's R&R. Plaintiff has been given  
11 ample opportunity to retain counsel to prosecute this action. Plaintiff's daughter informed  
12 the Court in a status report that Plaintiff has not been able to retain counsel and is  
13 unable to prosecute this action himself. (Dkt. no. 70.) Accordingly, the Magistrate Judge  
14 recommends dismissal of this action without prejudice. (Dkt. no. 72.) Upon reviewing the  
15 R&R and records in this case, this Court finds good cause to adopt the Magistrate  
16 Judge's R&R in full.

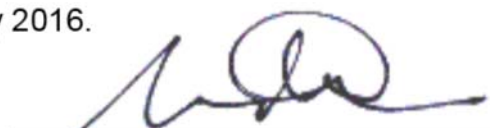
17 It is therefore ordered, adjudged and decreed that the Amended Report and  
18 Recommendation of Magistrate Judge George Foley, Jr. (dkt. no. 72) be accepted and  
19 adopted in its entirety.

20 It is ordered that this case is dismissed without prejudice.

21 It is further ordered that Defendants' Motion for Summary Judgment (dkt. no. 68)  
22 is denied as moot.

23 The Clerk is directed to close this case.

24 DATED THIS 22<sup>nd</sup> day of January 2016.

25  
26   
27 MIRANDA M. DU  
28 UNITED STATES DISTRICT JUDGE